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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/728,431	11/30/2000	Mehryar Khalili Garakani	2705-135	6083

7590 08/12/2004

Marger Johnson & McCollom, P.C.  
1030 SW Morrison Street  
Portland, OR 97205

EXAMINER

NGUYEN, HANH N

ART UNIT	PAPER NUMBER
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2662

DATE MAILED: 08/12/2004

7

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/728,431

Applicant(s)

GARAKANI ET AL.

Examiner

Hanh Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-25 are rejected under 35 USC 103(a) as being unpatentable over **Nicol** (US Pat. No. 6,757,367 B1) in view of **Pereira** (US pat. No. 5,781,726).

In claims 1, 7, 14, 17, 21, 22, 23, 24 and 25, Nicol discloses, in Fig.12, a method of synchronizing between a calling modem 180a and an answer modem 180b over packet based network/voice frame network. Each of the modems being connected to corresponding gateways 182a and 182b respectively. (See col.26, line 55 to col.27, line 5). The synchronizing is performed by:

Terminating data transmission between the calling and the answer modems (terminating physical layer). See col.28, lines 63-67.

A call negotiator 200 (Fig.13) using V.8 standard to determine the type and capability of calling modem as well as the answer modem (negotiating the modems of the network). Indications such as data signals ANSam and V.8 from answer/remote modem and local/calling modem are received at the call negotiator 200 (signaling the other gateway when the physical layer negotiations have been completed). See col.27, lines 52-67. Error correcting control is performed by synchronizer 222 (Fig.13) to ensure the network gateways utilize a common error

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protocol (negotiating error correcting data link layer). See col.29, lines 1-10. Data signals are relayed across the packet network 181 via modem relay mode by synchronizing the connection rates at network gateways ( synchronizing data transmission between the modems in the modem relay session). See Fig.4, col.28, lines 50-60. **Nicol** does not disclose sending from either gateway to an associated modem a not-ready message; and sending a ready message after the negotiations have been completed. **Pereira** discloses **in the relate art**, col.1, lines 15-30 that a polling made by one of two devices having physical connectivity and link layer is responded with a not ready message and ready message in order to keep the connection up ( sending a not-ready message and a ready message). Therefore, it would have been obvious to one skill in the art to modify the **Nicol** by adapting the polling command respected to be answered with the ready and not-ready messages to establish the connection between the gateway and modem and synchronize the calling and answer modems.

\*In claim 8, **Pereira** discloses a detection mechanism (a destructive break condition) for detecting receipt of an initiate data transfer command (send a ready receive signal), Fig.7, col.10, lines 29-31); a relay mechanism associated with each gateway response to said detection mechanism upon either such detection for relaying the break condition to the other gateway and for relaying the receipt of the initiated data transfer command (relay the ready receive command to the sending station, Fig.7); and a data discard mechanism ( use a smart polling system , col.11, lines 10-17) response to said relaying mechanism for discarding data (discard the standard poll signal) until a modem initialization response to (the condition and/or) the command receipt is completed (the system uses a smart polling system where the polling signals are discarded until

the connection between devices has been established, Fig.7, col.10, lines 29-53, col.11, lines 10-17).

In claims 2, 9, 12 and 13, Nicol discloses that the error correcting mode synchronization is support with V.42bis ( data compression), but does not disclose the not ready message and ready message compliant with the V.42 protocol. Pereira discloses the ready and not ready messages in claim 1. Therefore, it would have been obvious to one ordinary skill in the art to send response using the V.42 protocol in the Nicols in order to correct errors and synchronize the transmission between modems.

In claims 3, 15 and 18, Pereira discloses the method of parent claims 1, 14, 17 which after said signaling and upon occurrence of a destructive break condition (signaling to terminate a connection), further comprises relaying the occurrence of the destructive break condition from a segment to the other segment). Fig.7, col.11, lines 18-37).

In claims 4, 10, 16 and 19, Nicol does not disclose realying RR message. Pereira discloses the method of relaying the initiate data transfer command from a segment to the other segment (Fig.7, relay the ready receiver message).

In claims 5 and 11, Nicol does not disclose SABM mode. Pereira discloses the initiate data transfer command is a set asynchronous balanced mode extended message compliant with the ITU-T V.42 protocol (col.10, lines 4-6).

In claim 6, the limitation has been addressed in claim 1.

In claim 20, the limitation of this claim has been addressed in claims 2 and 5.

***Response to Arguments***

Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Biber et al. (US Pat. No. 5,170,394) discloses Host Network Communication with transparent connection devices.

Rozman et al. (US pat. No. 5,438,614) discloses Modem Management Techniques.

Verthein et al. (US pat. No. 6,487,196 B1) discloses System and Method for Simulating telephone use in a Network telephone System.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Nguyen whose telephone number is 703 306-5445. The examiner can normally be reached on Monday-Friday from 8:30AM to 4:30PM. The examiner can also be reached on alternate

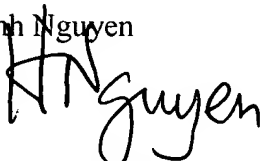
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou, can be reached on 703 306 4744. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hanh Nguyen

A handwritten signature in black ink, appearing to read 'HN Nguyen', written over the printed name.

August 5, 2004.